

### R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

### SUPPORT FOR CLAIM AMENDMENTS

Support for the claim amendments may be found in the specification, for example, in paragraphs 0039, 0040, 0042 and FIGS. 1 and 2, as originally filed. Thus, no new matter has been added.

### CLAIM REJECTIONS UNDER 35 U.S.C. §103

The rejection of claims 1, 3, 4, 6-12, 17-20, 22, 24-33, 39-43, 45, 47, 48, 50-56, 61-64, 66, 68-77, 83 and 90-93 under 35 U.S.C. §103(a) as being unpatentable over Allen III '726 (hereafter Allen) in view of Fu et al. '625 (hereafter Fu) has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 2, 5, 23, 34-38, 46, 49, 67 and 78-82 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of Beckers '974 and Fu has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 13-16, 21, 44, 57-60, 65 and 88 under 35 U.S.C. §103(a) as being unpatentable over Allen in view of

Fu and Yamamoto '059 has been obviated in part by amendment, is respectfully traversed in part, and should be withdrawn.

Allen concerns a patient-operated glucose monitor and diabetes management system (title). Beckers concerns a diabetes management system and apparatus (title). Fu concerns a personal health monitor (title). Yamamoto concerns a method and apparatus for measuring body fluid constituents and storing and managing the test data and method of controlling and processing the test data (title).

In contrast, the present invention provides a networked health-monitoring system configured to collect and process patient health-related data. The system generally comprises at least one microprocessor device, at least one central server and at least one health care professional computer. The microprocessor device (i) may include a display and a memory and (ii) may be configured to collect the health-related data based on at least one health condition of the patient. The central server is generally (i) remotely located from and in signal communication with the microprocessor device on a first communication channel to receive the health-related data from the microprocessor device and (ii) configured to generate health-related information from the health-related data. The health care professional computer may be remotely located from and in signal communication with the central server on a second communication channel to receive the health-

related information from the central server. The central server is generally configured to transfer one or more computer programs to the microprocessor device. The computer programs once transferred may be executed by the microprocessor device for collecting the health-related data. However, the proposed combinations of references do not include all of the claimed limitations for the reasons given below.

The current Office Action fragments the claimed limitations into small pieces, some of which appear in the claims in multiple places. Therefore, Applicant's representative will interpret the order of the fragments as they appear in the Office Action to match the order as they appear in the claims. The fragments are highlighted below in bold. If one or more of these interpretation are incorrect, the Office is respectfully requested to issue a new non-final Office Action with the proper order clearly defined as required by MPEP §707.07(f).

Claims 1, 45 and 89 are independently patentable over the cited references. Claim 1 provides (i) at least one microprocessor device, (ii) at least one central server **remotely located** from and in signal communication with the microprocessor device on a first communication channel and (iii) at least one health care professional computer **remotely located** from and in signal communication with the central server on a second communication channel. Claims 45 and 89 provide similar language. The Office

Action asserts that (i) a monitor unit 10 of Allen is similar to the claimed microprocessor device, (ii) a central unit 20 of Fu is similar to the claimed central server and (iii) a computer 102 of Allen is similar to the claimed health care professional computer. However, the references appear to be silent that the computer 102 of Allen is remotely located from and in signal communication with the central unit 20 of Fu on a second communication channel. Therefore, the proposed combination does not include all of the claimed limitations.

In particular, the Office Action asserts that Allen teaches that the central server is "remotely located", but does not identify what the central server is remotely located from. The Office Action also asserts that Allen does not teach the central server. Since Allen does not teach the central server or what it is supposedly remotely located from, Allen cannot possibly teach that the central server is remotely located from another computer similar to the claimed health care professional computer. Fu does not cure this deficiency. Therefore, the proposed combination does not include all of the claimed limitations.

Claim 1 further provides that the central server (i) is remotely located from and in signal communication with the microprocessor device on a first communication channel **to receive the health-related data from the microprocessor device**. Claims 45 and 89 provide similar language. The Office Action asserts that

Allen (i) teaches the claimed limitations in column 4 lines 51-63 and (ii) does not teach the claimed central server. Since Allen does not teach the central server, Allen cannot teach the missing central server receiving data. Furthermore, FIG. 4 of Allen shows that the monitor 10 is only connected to the computer 102. Hence, Allen would appear to teach that the healthcare professional computer, not the central server, receives the data from the microprocessor device. Therefore, *prima facie* obviousness has not been established.

Claim 1 further provides that the central server is (ii) **configured to generate health-related information from the health-related data**. The Office Action asserts that Allen (i) teaches the claimed limitations in column 1 lines 50-68 and FIG. 4 and (ii) does not teach the claimed central server. Since Allen does not teach the central server, Allen cannot teach the central server generating data from health-related data. Therefore, *prima facie* obviousness has not been established.

Claim 1 further provides that the healthcare professional computer is remotely located from and in signal communication with the central server on a second communication channel **to receive the health-related information from the central server**. Claims 45 and 89 provide similar language. The Office Action asserts that Allen (i) teaches the claimed limitations in column 4 lines 51-63 and (ii) does not teach the claimed central server. Since Allen does

not teach the central server, Allen cannot teach the healthcare professional computer receiving data from the missing central server. Furthermore, FIG. 4 of Allen shows that the monitor 10 is only connected to the computer 102. Hence, Allen appears to teach the healthcare professional computer receives data only from the microprocessor device. Fu appears to be silent regarding the central unit 20 generating health-related information from data received from the home units 60 and subsequently sending the health-related information to another computer similar to the claimed healthcare professional computer. Therefore, the proposed combination does not include all of the claimed limitations.

Claim 1 further provides that the central server **is configured to transfer one or more computer programs to the microprocessor device**. Claims 45 and 89 provide similar language. The Office Action asserts that Allen (i) teaches the claimed limitations in column 1 lines 50-68, claim 5 and FIG. 4 and (ii) does not teach the claimed central server. Since Allen does not teach the central server, Allen cannot teach the missing central server transferring computer programs to the microprocessor device. Fu does not cure this deficiency. Therefore, the proposed combination does not include all of the claimed limitations.

Furthermore, page 4 of the Office Action asserts that FIG. 1 of Fu teaches "**at least one central server, from the central**

**server"**. In contrast, no such claimed limitation exists. Therefore, the assertion is incorrect and should be withdrawn.

Claim 1 further provides at least one health care professional computer **remotely located from and in signal communication on a second communication channel with the central server** to receive the health-related information **from the central server**. Claims 45 and 89 provide similar language. The Office Action asserts that Fu teaches the above claimed limitations in FIG. 1. In contrast, FIG.1 of Fu does not show that the central unit 20 is any of (i) remotely located from any computer that could possibly be similar to the claimed healthcare professional computer, (ii) in signal communication on a second communication network with the missing healthcare professional computer and (iii) sends the health-related information to the missing healthcare professional computer. Allen does not cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations.

The Office Action asserts that motivation to add Fu to Allen is to improve "invention to input, measure, monitor and communicating health data". However, no articulated findings of fact or explanation is provided to show that the proposed combination actually achieves the alleged improvements. As such, the Office is respectfully requested to either (i) provide evidence and explanations how the proposed combination is allegedly improved

or (ii) withdraw the rejections. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Claims 8 and 52 are independently patentable over the cited references. Claim 8 provides a data management unit configured to (i) facilitate collection of the health-related data from the health monitoring device and (ii) transfer the computer programs from the central server to the microprocessor device. Claim 52 provides similar language. The Office Action asserts that the text in column 1 lines 50-68 and column 6 lines 50-62 of Allen mention a device similar to the claimed data management unit. In contrast, the cited text, and the rest of Allen appears to be silent regarding any such device. Therefore, the proposed combination does not include all of the claimed limitations.

In particular, Allen appears to be silent regarding any device between the monitor 10 and the communications channel 105 that both (i) facilitates collection of health-related data and (ii) transfers computer programs to the monitor 10. Fu do not cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations. As such, claims 8 and 52 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 11 and 54 are independently patentable over the cited references. Claim 11 further provides at least one personal



computer connected to the data management unit. Claim 54 provides similar language. The Office Action asserts that the items 10, 100-106 and 114 in FIG. 4 of Allen allegedly mention a personal computer connected to a data management unit. In contrast, the rejection of claims 8 and 52 fail to establish any device similar to the claimed data management unit. The monitor 10 of Allen is already allegedly similar to the claimed microprocessor device. The computer 102 of Allen is already similar to the claimed healthcare professional computer. One of ordinary skill in the art has no reason to consider any of the remaining devices 100 (a human), 104 and 106 (modems), 105 (communications channel) and 114 (another human) to be similar to a personal computer. Fu does not cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations. As such, claims 11 and 54 are fully patentable over the cited references and the rejections should be withdrawn.

Claims 39 and 83 are independently patentable over the cited references. Claim 39 further provides that the transferring of the computer programs from the central server to the microprocessor device is in response to an input received at the microprocessor device. Claim 83 provides similar language. The Office Action asserts that column 1 lines 50-68 of Allen teach transferring computer programs to the monitor 10 in response to an input received at the monitor 10. In contrast, Allen appears to be

silent regarding (i) the monitor 10 receiving computer programs through the modem 106 and (ii) the missing transfer occurring in response to an input received at the monitor 10. Fu does not cure these deficiencies. Therefore, the proposed combination does not include all of the claimed limitations.

Furthermore, page 28 of the Office Action appears to cite Applicant's own specification, paragraphs 0023-0024, to interpret the teachings of the reference. It is improper to use that which the inventor taught against its teacher per MPEP 2142. Therefore, the Office is respectfully requested to either (i) remove Applicants' specification from the rational for the rejections or (ii) withdraw the rejections.

Claims 90 and 92 are independently patentable over the cited references. Claim 90 provides that the transferring of the computer programs from the central server to the microprocessor device is done automatically on a **repeated basis**. Claim 92 provides similar language. The Office Action asserts that column 12 lines 4-7 of Allen teach the claimed repeated basis. In contrast, the cited text of Allen teaches flashing a display. Flashing a display does not appear to teach or suggest to one of ordinary skill in the art that computer programs can be downloaded to the monitor 10 on a repeated basis. As such, the Office is respectfully requested to either (i) provide evidence in the form of a reference and/or an affidavit under 37 CFR 1.104 showing that

one of ordinary skill in the art would consider a flashing display to teach repeated computer program downloads or (ii) withdraw the rejections.

Claim 2-44, 46-88 and 90-93 depend, either directly or indirectly, from the independent claims, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

#### **COMPLETENESS OF THE OFFICE ACTION**

Aside from a notice of allowance, Applicant's representative respectfully requests any further action on the merits be presented as a non-final action. The rejections of claims 11 and 54 were (i) traversed in the prior amendment, (ii) repeated in the current Office Action (iii) but the substance of the traversals was not addressed as required by MPEP §707.07(f). Furthermore, the rejection of claims 39 and 83 appear to improperly rely on Applicants' own specification. As such, the current Office Action is incomplete and either (i) a notice of allowance or (ii) a new non-final Office Action should be issued.

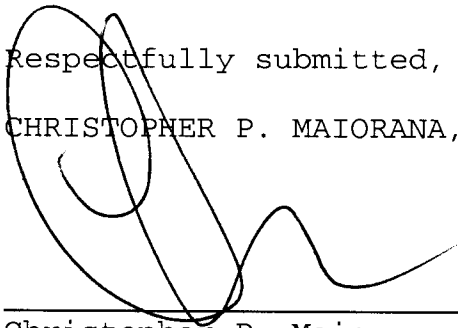
Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,

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